IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE SEVENTEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 12456 of 1990

Between:

Allam Venkateswara Rao

..... PETITIONER

AND

1.. Smt.Pasupuleti Hymavathi

S/o. Sambasivarao

R/o. Bhattiprolu, Guntur District

2.. The Special Officer-cum-Principal District

Munsif, Repalle, Guntur district

3.. The District Judge, Guntur **.....RESPONDENT**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, order or direction particularly a writ of certiorari calling for the records relating to A.T.C.4/82 on the file of the Special Officer-cum-Principal District Munsif, Repalle dated 10-10-1988 as confirmed in A.T.A. No.95 of 1988 on the file of the District Judge, Guntur dated 6-4-1990 and quash the same.

Counsel for the Petitioner:MR.M.RAJASEKHARA REDDY

Counsel for the Respondent No. 1: MR.CHALLA AJAY KUMAR

The Court made the following :

The present writ petition is filed questioning the orders passed in A.T.C. No. 4 of 1982 on the file of the Special Officer-cum-Principal District Munsif, Repalle dated 10-10-1988 as confirmed in A.T.A.No.95 of 1988 on the file of the District Judge, Guntur dated 6-4-1990.

The brief facts which lead to filing of the present writ petition are that the petitioner herein is brother of first respondent. That one
Smt Murimilla Venkayamma/ who is paternal aunt of the petitioner and used to stay with his father had gifted Ac.1-00 of wet land to first respondent vide gift deed dt 14-5-1962 and vide letter dated 22-1-1981 she had gifted the balance land of Ac.0-28 ¾ cents. It is stated that the subject land was cultivated by petitioner's father as a lessee and after his death the petitioner has become lessee. It is also stated that due to the family relationship, no lease agreement was executed and the petitioner has paid the "Maktha" in 1982 as usual. There exist some differences and though the petitioner expressed his willingness to purchase the subject property, the first respondent sought to sell the land to third parties, hence, the petitioner approached the Tenancy Court.

The first respondent contested the matter and filed counter affidavit stating that her father was used to look after her properties and never cultivated the same as a lessee and upon his death certain disputes with regard to properties arouse between her and the petitioner and at the instance of elders of the village, the disputes were settled and an agreement was executed in favour of the first

respondent on
10-3-1981. It is also stated that petitioner tried to sell away her properties and also filed O.S.No.136 of 1982. It is also stated that the petitioner never paid the maktha.

The Special Officer cum Principal District Munsif, Repalle on consideration of the matter, dismissed the petition by order dated
10-10-1988. Aggrieved by the said order, the petitioner filed an appeal in A.T.A.No.95 of 1988 on the file of the District Judge, Guntur. The said appeal was dismissed by order dated 10-10-1988 holding that the petitioner failed to prove that he is cultivating tenant of the entire schedule land as on the date of filing of the petition and is not entitled for declaration and permanent injunction. Questioning the said order, the present writ petition is filed.

Heard learned counsel for petitioner and learned counsel for respondent.

It is to be noted that both the lower authority and the appellate authority held that the petitioner failed to establish the tenancy over the subject property and dismissed the claim of the petitioner. Having heard the learned counsel for both parties and on perusal of the material placed on record, I see no reason to interfere with the concurrent findings of fact recorded by the lower authorities and to take a different view. The writ petition fails and the same is hereby dismissed. No costs.

17-8-2004

tvk

To

1.. The Special Officer-cum-Principal District
Munsif, Repalle, Guntur district

2.. The District Judge, Guntur

3.. 2CD copies